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2. International Trading Frameworks



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Presentation Outline

Part 1

1. WTO Basic Facts and Principles
2. The Structure of the WTO
3. Accession to the WTO
4. The Negotiating Forum
5. What Was Achieved at Doha
6. Developing Countries and the WTO
7. Perspectives of the LDCs
8. Major Achievements of WTO
9. Reform Issues
10. Some Conclusions on the WTO

Part 2

11. Regional Trade Arrangements
12. Informal regionalism



1.1 WTO: Basic Facts

■ **Basic facts**

- Created in 1995; 144 members, 26 in process
- Covers 90% of world merchandise trade
- Codes of Conduct—rules based
- Negotiating rounds
- Enforcement mechanisms

■ **Basic principles**

- Non-discrimination (National treatment, MFN)
- Reciprocity
- Predictability—bindings and removal of NTBs
- Fair competition, Exceptions and Safety valves

1.2 WTO: Basic Facts

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National Security

Health, Safety, Environment

Emergency Protection (safeguards)

Renegotiation of Concessions

Anti-dumping and countervailing duties

Balance of payment problems

Preferential Trade Agreements

■ Basic principles

- Non-discrimination (National Treatment, MFN)
- Reciprocity
- Predictability—bindings and removal of NTBs
- Fair competition, Exceptions and Safety valves

1.3 WTO: A Negotiating Forum...

- **The WTO is an organization which administers the trade agreements negotiated by its members: GATT, GATS and TRIPs**
- **It does not have the power and influence of either the IMF or the World Bank since it is not set up as an accreditation body (IMF) or a financial entity (World Bank), rather as a negotiating forum between members.**
- **It is set up to serve its members. As one diplomat commented to the Director General of the WTO: “Sir, there is a difference between you and me; I am a Contracting Party and you are a Contracted Party.”**

1.4 And a Market Place of Commitments.

- **More than a negotiating forum the WTO is a market for the exchange of liberalization commitments.**
- **Bargaining and negotiation are the main instruments used to reduce barriers to trade and agree to rules of behavior.**
- **MTNs are mechanisms to facilitate the reciprocal exchange of market access commitments.**
- **As more is understood about the WTO, in particular among developing nations, the more countries wish to become part of and participate in this market place.**

2.1 WTO Structure: The Marrakesh Agreement

The Four Annexes to the WTO Marrakesh Agreement

- Annex 1: Multilateral Agreements
 - Annex 1A GATT
 - Annex 1B GATS
 - Annex 1C TRIPs
- Annex 2: Settlement of Disputes
- Annex 3: Trade Policy Review Mechanism
- Annex 4: Plurilateral Agreements agreed in the Tokyo Round (1973-79) not ratified at the Uruguay Round (1986-94) and thus bind only signatories.

2.2 Difference Between GATT and GATS



GATT

- **General national treatment obligation**
- **General prohibition against QRs**
- **Tariff bindings**
- **Focuses on cross-border trade in goods**

GATS

- **Sector-specific national treatment**
- **Less stringent limitations on QR use**
- **Market access commitments**
- **Deals not only with cross border transactions, but other components of trade in services**

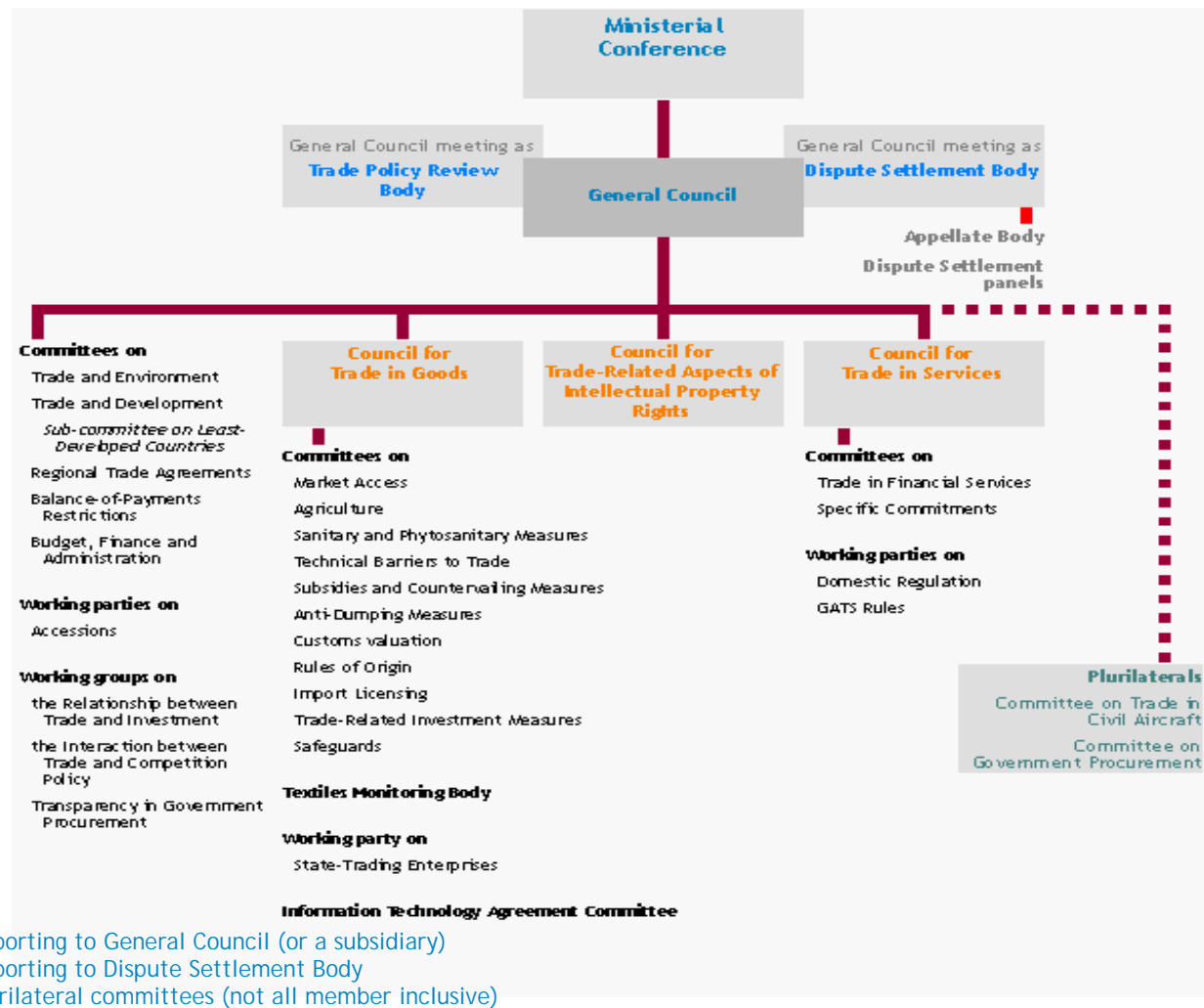
2.3 TRIPs and WTO Rules

- **The TRIPs Agreement has 7 major parts and 73 Articles covering:**
 - Copyright and Related Rights (sound and performance protected for 50 years, broadcasting for 20 years, extends Berne to computer authorship).
 - Trademarks (minimum rights members must grant to mark owners).
 - Industrial Design (10 years of protection).
 - Patents (20 year patent protection).
 - Integrated Circuits Design (minimum 10 year protection period).
- **The Agreement establishes:**
 - Minimum substantive standards.
 - Prescribes procedures and remedies available to members to enforce these rights.
 - Extends GATT principles such as transparency and nondiscrimination to IPRs.

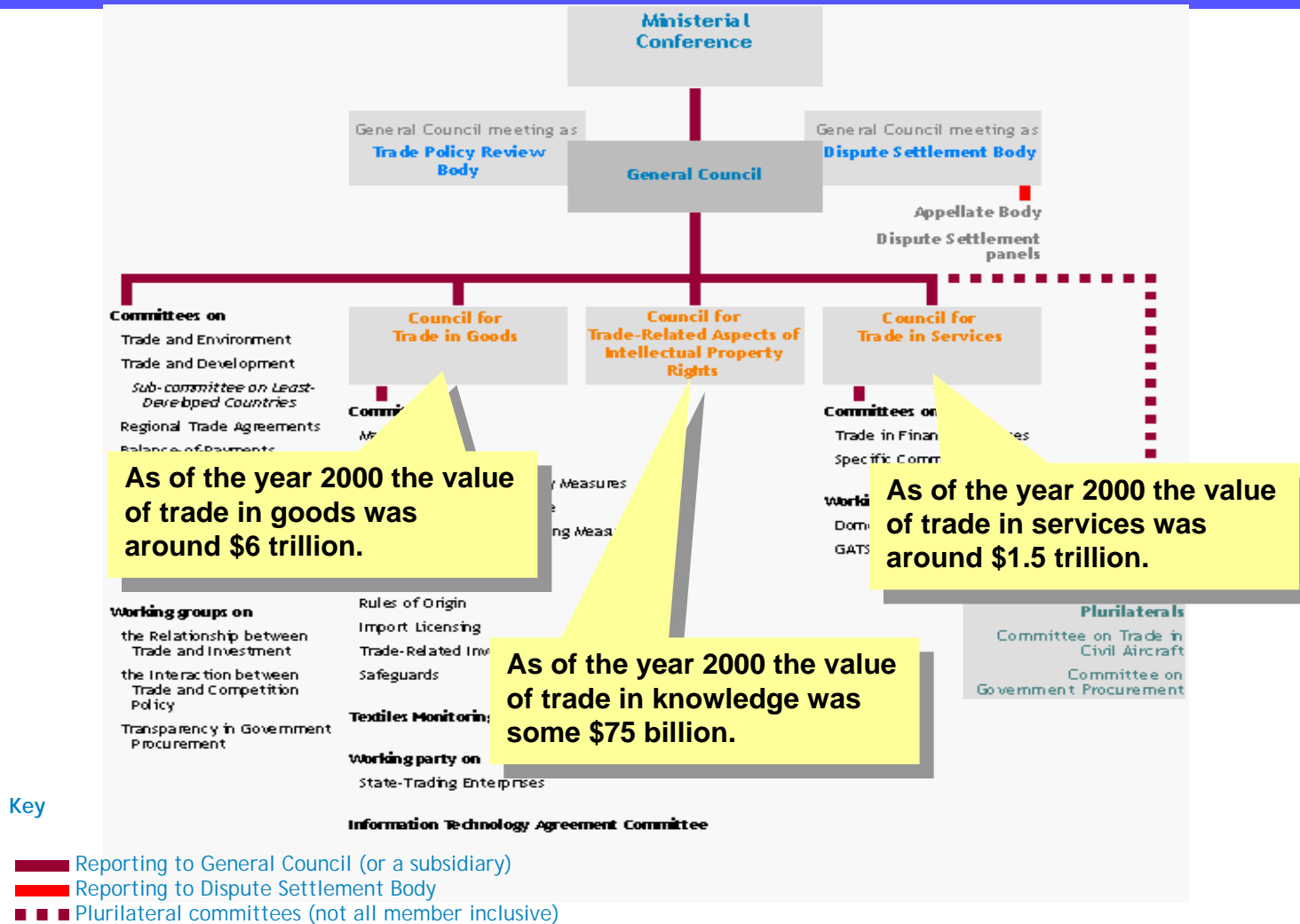
2.4 TRIPs and WTO Rules

- **All WTO members are obliged to provide procedures and remedies under domestic law for the enforcement of IPRs.**
- **TRIPs Article 40 recognizes some licensing practices on IPRs may have adverse effects on trade or impede technology transfer**
- **Members may specify in their legislation, practices that constitute an abuse by IPR and allow for Government intervention.**
- **International exhaustion rule can apply (domestic buyers can purchase patented and branded products where ever they find the most favorable price)**
- **Developing countries were allowed four years (to 1998) to implement, LDCs granted 12 years (to 2006).**
- **Developing countries were allowed to delay the application of TRIPs on pharmaceuticals and agricultural chemicals for an additional 5 years (to 2003).**

2.5 WTO Organizational Structure



2.6 WTO Organizational Structure



3.1 Accession: Some Background

- **Membership is open to any state or customs territory (e.g. Kosovo (?), Montenegro (?) and Saudi Arabia, Ukraine).**
- **Upon formal request each WTO member has the right to present specific demands to the applicant on both tariff and non-tariff issues.**
- **Accession since the formation of the WTO has become more stringent than under GATT—explaining the need for trade capacity building among several (developing country) WTO members.**

3.2 Accession: A Complex and Long Process

- **A country that desires to join the WTO negotiates with an incumbent club of members and has little bargaining power.**
- **Accession process is asymmetric—the acceding country cannot negotiate additional benefits already codified in WTO agreements, but members can ask for more than the status quo.**
- **More comprehensive agricultural and service sector reforms is demanded of acceding members under WTO than was the case under GATT.**
- **WTO members often demand complete implementation of required reforms as opposed to gradual transition.**

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 - Accession process is asymmetric—the acceding country cannot negotiate additional benefits already codified in WTO agreements, but members can ask for more than the status quo.
 - More comprehensive reforms are demanded of a new member than would be required in a case under GATT.
 - WTO members often demand more extensive required reforms as opposed to GATT.
- New members get the benefit of all the negotiating rounds from previous years, so existing members demand an 'admission fee'. Upon joining the WTO an acceding country's trade regime must not only conform (as much as possible) to GATT, GATS and TRIPs, but the government will be asked to liberalize access to its markets as well.

3.3 Accession: 4 Independent Parallel Tracks

- **Track 1: Multilateral Negotiations/Working Party**
 - Submission of the Memorandum on the Foreign Trade Regime (MFTR).
 - Discussion revolves around economic policies and statistics, international agreements, reform of legal system, regulations and decision-making.
 - WTO members must be satisfied all legal and policy measures have been adopted.
 - Report of Working Party is drafted and reflects the MFTR, questions/replies and concerns of working party.
 - About six meetings required.

- **Track 2: Bilateral Negotiations on Goods**
 - Each WTO member interested in bilateral negotiations evaluates the initial offer on goods and usually requests additional concessions.
 - The offer outlines mainly the acceding country's proposed tariff binding levels.
 - The country's customs tariff nomenclature is submitted, and its actually applied customs duties.
 - All commitments and concessions are merged in the Schedule of Concessions and Commitments on Goods (all bilateral concessions and commitments are extended to all WTO members on an MFN basis).
 - Generally 15 countries are interested in bilateral negotiations, about five rounds are required for each country.

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**Interested countries always include:
Australia, Canada, EU,
Japan, Switzerland and
the US.**

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■ **Track 3: Bilateral Negotiations on Services**

- Acceding country submits proposed commitments on:
 - (i) Not introducing and/or eliminating restrictions on market access and National Treatment connected with most service sectors, and
 - (ii) Leaving certain sectors unbound.
- Each WTO member interested in bilateral negotiations evaluates the initial offer on services and usually requests additional concessions.
- All commitments and concessions are merged into the Schedule of Specific Commitments on Services.
- Around eight countries are usually interested in BNS and take five rounds per country.

■ **Track 4: Plurilateral Negotiations on Agricultural Subsidies**

- Acceding country submits Information on Domestic Support and Export Subsidies in Agriculture.
- Big four agriculture countries plus CAIRNS countries request additional clarifications.
- Agreements reached on binding levels of domestic and export subsidies.
- Final commitments are added to the Schedule on Concessions and Commitments on Goods.

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 - (i) Not introducing and/or eliminating restrictions on market access
 - Treatment connected with most service sectors, and
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- Each WTO member interested in bilateral negotiations expects the initial offer on services and usually requests additional concessions
- All commitments and concessions are merged into the final commitments on Services.
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Interested countries always include: EU, Switzerland and the US.

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Big four agriculture countries include: Australia, Canada, EU and US. CAIRNS countries are Argentina, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay.

3.4 Accession: Final Package

- **All tracks are concluded through one final working party meeting that adopts the Accession Package and recommends accession of the applicant country to the WTO General Council (or Ministerial Conference).**
- **The WTO General Council (or Ministerial Conference) meets and adopts the Accession Package and approves the decision by a two-thirds positive majority vote of the WTO Members, in case of objection by at least one country.**
- **Otherwise adoption and approval are achieved through consensus.**
- **Practically, decisions are all taken by consensus.**
- ***Defacto* requirement is adoption of Plurilateral agreements.**

3.5 Accession: Those Left

Algeria
Nepal
Russian Federation
Saudi Arabia
Belarus
Armenia
Ukraine
Sudan
Cambodia
FYR of Macedonia

Uzbekistan
Vietnam
Seychelles
Tonga
Vanuatu
Kazakhstan
FRY
Azerbaijan
Andorra
Laos

Samoa
Lebanon
Bosnia
Bhutan
Cap Verde
Yemen
Bahamas
Ethiopia
Holy See
Sao Tome and Principe

4.1 Negotiating Forum

- **Negotiations are the heart of the multilateral trading forum, used to reduce trade barriers, decide accession, and resolve trade conflicts.**
- **There have been 12 key trade rounds/ministerial meetings between 1947 and 2001.**
- **Each of these were negotiating forums where the issues and agenda were attempted to be set.**
- **Each round/ministerial meetings shows a progression from simple bilateral or limited multilateral tariff negotiations to complex multilateral non-tariff barriers to negotiations over social and political issues not thought traditionally part of trade negotiations.**

4.2 Negotiating Forum: Progression from Tariff to NTB.

Trade Round/Meetings Group 1: Item by Item tariff negotiations.

1947 Geneva (23 countries)
1949 Annecy (13 countries)
1950-51 Torquay (38 countries)
1955-56 Geneva (26 countries)
1960-61 Dillon Round (26 countries)

EEC is introduced.

Outcome takes about 1 year.

Trade Round/Meetings Group 2: Across the Board Tariff Approach and NTB Negotiations begin.

1963-67 Kennedy Round (62 countries)
Round.
NTB Issues: Antidumping, Customs Valuation.
1973-79 Tokyo (102 countries)
NTB Issues: Antidumping, Customs Valuation, Subsidies and Countervail, Procurement, Safeguards, Dealing with developing countries.

Outcome takes about 4 years.

4.3 Negotiating Forum: From Tariff, NTB to Agriculture and Social Policy.

Trade Round/Meetings Group 3: More complex NTB discussions and coverage (WTO)

1986-94 Uruguay (103 countries in 1986, 117 in 1993).

NTB Issues: All Tokyo, IP, Pre-shipment, Rules of Origin, TRIMs, Dispute Settlement, Transparency, Surveillance of Trade Policies. Agriculture and textile subjected to rules.

Outcome takes about 8 years.

Trade Round/Meetings Group 4: Failed attempts at more complex NTB, Agriculture and Social Policy

1990 Brussels (All WTO).
Failure to agree on agriculture.

1997 Singapore (130 countries).
Failure on labor, comp. investment, procurement.
Some success on ITA (working group formed)

1999 Seattle (135 members)
Failure to agree on a MTN or even a work program.

No Outcome of consequence

4.4 Negotiating forum: Lessons

- **As more countries are involved and as the issues move from simple tariff bindings discussions to more complex NTB and social policy, trade rounds take longer.**
- **The success of tariff negotiations over time (Geneva 1947 to Tokyo 1949) came as a result of nations realizing they were still stuck in the mind-set of mercantilism and need to abandon this in favor of imports leading to improvements in their own growth capacity (“we export so we can import”).**

4.5 Negotiating Forum: Lessons

- **The failures of the 1982 Geneva to 1999 Seattle meetings are an outcome of a natural progression of the WTO trying to incorporate very difficult social and sovereign issues which are connected to AID and Trade.**
- **As the membership in the formal WTO process increases, the hard issues of labor, environment, human rights will have to be dealt with.**
- **The WTO is a good forum in which to resolve these issues since while a deal may take longer the spirit of reciprocity and oversight in each deal will make them more lasting.**

5.1 What Was Achieved at Doha?

■ A new round of trade negotiations

- Services: continue work already begun
- Agriculture: phase out of export subsidies; improve S&D treatment; create a “development box”
- Market Access: reduce or eliminate tariffs, tariff peaks, escalation & NTBs on key items
- TRIPS: registration for geographical indications of wine & spirits; relationship between TRIPS & biodiversity
- Dispute Settlement: improve & simplify procedures
- WTO Rules: Clarify and improve use of anti-dumping & countervailing duties; consideration for LDCs

■ Work program in new areas

- Investment; competition policy; procurement; trade facilit.
- Preliminary talks on e-commerce; small economies; relationship of trade, debt & finance; technology transfer



5.2 Doha Development Agenda

■ Agriculture

- Tariff rate quotas; green box subsidies; TA

■ SPS and TBT

- Longer period for compliance; equivalent standards; increased participation

■ Textiles & Clothing

- Acceleration of quota removal; liberalization of dumping actions; advancing growth-on-growth provisions

■ TRIMS, Valuation

- Extending 5 year transition period; LDC consideration

■ Subsidies

- Export subsidies OK so long as country stays at \$1,000/capita for 3 consecutive years

■ TRIPS

- Allows compulsory licensing & parallel importation of drugs
- No challenges

■ S&D Treatment

- Review; exemption for Contanou; funding



5.3 Negotiating Forum Doha Success Emerges

- **Many of the more complex issues were finally raised at Doha and tabled for discussion:**
 - Agriculture, clarifying rules and accession for LDCs, environment (CTE and CTD will formally debate the issues for future discussion), Services and IP, DSU and technology transfer to developing countries.
- **However, absent from the agenda items and the Work Program is labor.**

6.1 Developing Countries and the WTO

Developing country participation in the multilateral trading system have been through four stages:

- (1947-64) Small scale membership of low income countries in GATT based on a formal parity of obligations—but developing countries always sought special treatment.
- (1964-86) Substantial broadening of developing country membership based on the concept of more special and differential treatment (S&D).
- (1986-Seattle) Deepening integration of developing countries into GATT-WTO system, with a return to reciprocal relationships.
- (Post-Seattle) Increased concern with accommodating developing and LDC members and improving access for developing and LDC non-members. A turn away from reciprocity and MFN, as a means of accommodating its membership.

6.2 Developing Countries and the WTO

- **Developing and LDCs have five special provisions embedded in the WTO agreement known as Special and Differential Treatment:**
 - Lower levels of obligations.
 - More flexible implementation timetables.
 - Commitments by developed countries to take into account developing country concerns.
 - More favorable treatment for LDCs.
 - Provisions for technical assistance and training.
- **Problems**
 - Uneven treatment among agreements
 - Market access and technical assistance are non-binding
 - Most DCs and LDCs cannot build capacity to really comply within agreed time-frames

6.3 Developing Countries and the WTO

- **However, nearly all of the 97 provisions in the WTO agreements that call for Special and Differential Treatment (S&D) are “best efforts” clauses or commitments.**
- **They are not binding on high income countries.**
- **No dispute settlement cases can be brought before the DSB on the basis that S&D commitments were not met.**
- **On the other hand, developing country commitments that are made at the WTO are binding.**
- **The inherent contradiction in this has served to raise the development agenda since Seattle at the WTO.**

7.1 Perspective of the Least Developed

- **Tariffs and NTBs are highest in products most important to LDCs**
 - Most NTBs are in agriculture, textiles
 - Agricultural products face high tariffs (e.g., 100% for meat; 132% for shelled ground nuts)
 - Industrial country tariffs on LDC manufactured exports are 30% higher than world average
 - Only 311 of the 5,000 tariff lines in the US are above 15%--but 15% of exports from LDCs are affected
- **LDC face unique challenges**
 - Revenues are mostly dependent on trade taxes
 - Lack capabilities & resources to fully participate in WTO
 - Significant trade-offs with other development needs

8.1 Major Achievements of WTO

- **Greater security through tariff bindings (97%)**
- **New, stronger agreements**
 - Textiles—time-table to liberalize trade
 - SPS—transparent regime for agricultural trade
- **Includes new sectors not addressed by GATT**
 - Services (GATS); Intellectual property (TRIPs)
 - Rules for foreign investment (TRIMs)
 - Government procurement; Information technology
- **Permanent enforcement mechanisms**
 - Transparency—Trade Policy Review Mechanism
 - Dispute Settlement—DSM, Panels
- **Special & Differential Treatment for DCs**

9.1 Reform Issues: Technical

- **Emerging technical issues need to be addressed by the WTO and the various agreements—particularly GATS.**
- **New agreements have emerged in MTNs, these include:**
 - Competition and investment policies
 - Environment
 - Labor
 - Transparency in government procurement
 - E-commerce and telecommunications
 - Financial services
- **Each of these new agreements and how they are formed will, in and of themselves, reform the WTO.**

9.2 Reform Issues: Political

Several post-Seattle issues have emerged for the WTO, in particular:

- The WTO and transparency
- The WTO and PR
- The WTO and NGOs

Each of the above issues relate to how the WTO is run and how well it articulates its mission and responsibilities.

9.3 Reform Issues: Some Proposals

- **Change the current structure of the WTO's voting system to a Bretton-Woods/UN hybrid structure.**
 - Problems with this emerge as it will put the developing countries in even more control than they now have.
 - Fails to understand the nature of consensus building at the WTO.
 - As trade capacity builds among developing countries they will participate more in the forum and will likely cause voting to occur more than it has—in this case the WTO acts as a one-member-one-vote forum.
- **Include a forum for NGO participation**
 - This is problematic since it would change the nature of the WTO and reduce its effectiveness as a negotiating forum.
- **Better publicize the WTO's current method's of operation and allow for a shift in emphasis within the existing structure.**
 - This is the best way to proceed if we are to preserve the nature of the WTO as a forum for its national members to exchange commitments and represent national interests.

10.1 Some Conclusions on the WTO

- **WTO framework is not perfect but has delivered substantial, positive benefits**
 - Greater security; common rules
 - Tariff and NTB reduction; improved market access
 - Gains from further liberalization are substantial and will benefit DCs and LDCs
 - Doha has addressed many DC/LDC concerns
- **The way forward requires**
 - Greatly improving market access of DCs and addressing their serious concerns regarding the organization
 - Ensuring that WTO rules support development and are seen to do so by civil society
 - Assistance to DCs to build capacity and improve environmental and social policies

11.1 Regional Trade Agreements

- **Consistent with WTO**
- **Formal mechanisms**
 - Common Markets
 - Customs Unions
 - Free Trade Areas
- **Informal mechanisms**
 - Growth triangles
 - Economic Corridors

200 RTAs in effect globally



11.2 Building Blocks or Stumbling Blocks?

Pros

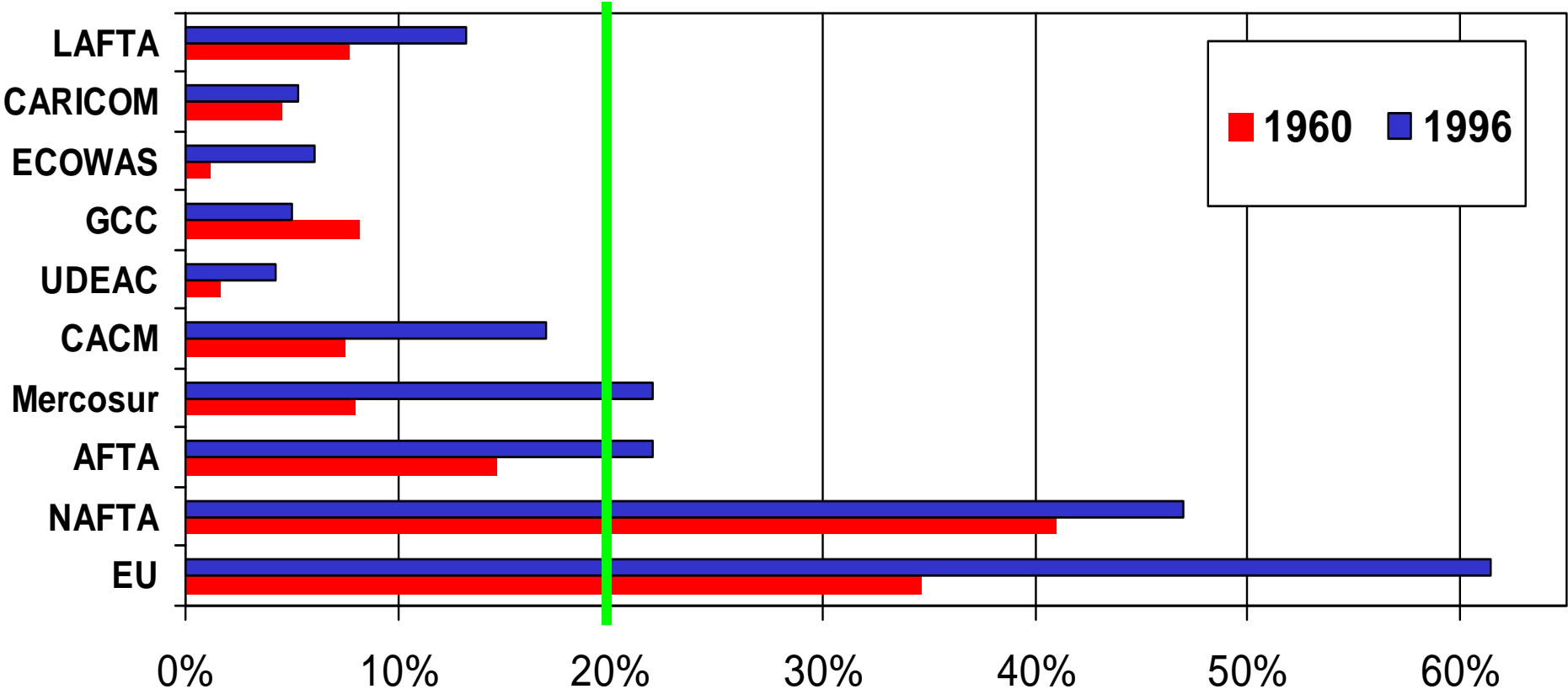
- Faster liberalization—static and dynamic gains
- Increased returns from larger market size
- Promotion of FDI
- Lower prices due to tariff elimination and trade creation

Cons

- Can divert trade from more efficient sources
- Prices may rise if tariff cut is absorbed in profits
- Proliferation of new, complex rules
- Can defeat the drive toward multilateralism

11.3 Evidence of Regional Integration

Intra-RTA Trade as a Share of the RTA's Total Exports



South-South RTAs have generally been unsuccessful

11.4 Why Have Some RTAs Failed?

- Used to support import substitution based industrialization
- Lack of political commitment
- Limited sectoral coverage
- Limited policy coverage
- Limited complementarities
- Inability to exploit scope for intra-industry trade
- Poor infrastructure
- Macroeconomic instability

12.1 Informal Regional Cooperation

- **Differ from formal mechanisms:**
 - Encompass only parts of countries, specific areas
 - Extra-regionally oriented—exports and FDI
 - Do not have common policies; emphasis on reduction of cross-border barriers
 - Benefit border areas of countries
 - Facilitate decentralization, devolution of powers
 - Serve as “demonstration areas” for policy reforms
- **Examples**
 - IMS-GT, IMT-GT, BIMP-EAGA, ZMM-GT